

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

AUGUSTINE MARTINEZ, et al.,

Plaintiffs,

v.

AC LUMBER, et al.,

Defendants.

Case No.: C 07-2710 PVT

**ORDER DISMISSING CASE
WITHOUT PREJUDICE**

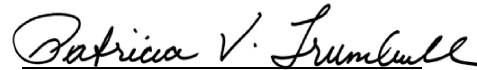
On November 9, 2009, the court issued an order to show cause why this action should not be dismissed without prejudice to Plaintiffs filing a complaint in state court. No response to the order to show cause was filed by any of the parties. Therefore, based on the file herein,

IT IS HEREBY ORDERED that this case is DISMISSED without prejudice to Plaintiffs filing a complaint in state court. Plaintiffs have withdrawn their only federal claims.¹ In cases where all federal-law claims are eliminated before trial, “the balance of factors to be considered under the pendent jurisdiction doctrine-judicial economy, convenience, fairness, and comity-will point toward declining to exercise jurisdiction over the remaining state-law claims.” *Carnegie-Mellon Univ. v.*

¹ See Joint Pretrial Conference Statement (docket no. 41) at 3:8-10, 4:11-13 & 5:16-18.

1 *Cohill*, 484 U.S. 343, 350 n. 7 (1988); *see also* 28 U.S.C. § 1367(c)(3) & (d).²

2 Dated: 12/9/09

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4 PATRICIA V. TRUMBULL
5 United States Magistrate Judge
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27 ² The statute of limitations concern articulated in *Carnegie-Mellon* was later addressed
28 when congress enacted the supplemental jurisdiction statute, which includes a provision tolling the
statute of limitations for state law claims when they are filed along with federal claims in district
court. *See* 28 U.S.C. § 1367(d)

Counsel automatically notified of this filing via the court's Electronic Case Filing system.

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/s/ Donna Kirchner for
CORINNE LEW
Courtroom Deputy